

Appl. No. 10/821,742
Amtd. Dated February 10, 2006
Reply to O A of August 18, 2005

Remarks/Arguments:

Claims 1-5 were pending, and claim a fog filled bubble blower of this Application (the “Fusco Blower”). The Examiner has rejected Claims 1-5 under 35 U.S.C. § 102(e) as being anticipated by LaFata, et al US2005/0148276A1 (“Lafata”). The Fusco Blower, however, is not anticipated by LaFata, and Applicant therefore respectfully traverses this rejection and requests reconsideration.

Section 102(e)(1) requires: (a) that the invention be described in a certain published application; and (b) that the published application was filed before invention by applicant in the examined application. Applicant herein is confident that he invented the Fusco Blower prior to the filing of the LaFata application, but Applicant herein elects to reserve that proof, and instead demonstrate that the Fusco Blower is not described in the LaFata Application. Specifically, the elements of a fresh air intake hose (Claim 5), and the relative location of the heating element assembly to the fresh air and exhaust fan (Amended Claim 1, and Claims 3 & 4) are neither present in nor suggested by LaFata. Allowance of Claims 1 & 3 – 5 is requested.

As explained in the previous response, the motorization of a fog filled bubble blower creates problems, the solutions to which are neither suggested by nor obvious from prior art. Specifically, one problem is that motorization creates a high volume of air that will dilute the fog to unacceptable levels unless further steps are taken.

One step taken by the Fusco Blower to solve this problem is to suck the fog out of the chamber rather than blow it out. This results in a higher concentration of fog in the air and a more satisfactory product. Additionally, as claimed in Claims 4 and 5, the Fusco Blower uses a

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separate fresh air intake hose to supply air to the fog chamber away from the exhaust fan (Claim 5), and to supply fresh air so that the heating element assembly is between the fresh air and the exhaust fan (Claim 4). This allows fresh air to refill the fog chamber as the fogged air is evacuated, and a greater amount of fog is evacuated before it is materially diluted by fresh air.

See Specification, p. 5, lines 20-23.

The Examiner relies on LaFata Fig. 9 in asserting that the fresh air enters the fog chamber so that the heating element assembly is between the fresh air entering the fog chamber and the exhaust fan, and that fresh air enters the fog chamber through the fresh air intake hose [LaFata pipe 230]. This is an inaccurate interpretation of LaFata.

As the LaFata specification describes Fig. 9, element 230 is a pipe or conduit that carries the smoke fluid or fog solution from the reservoir to the heating element. See p. 6, ¶¶116 & 117. The pipe 230 extends into the bellows 91, which allows the fluid to be pumped from the solution tank 210 through the bellows 212, through the pipe 230 to the heating element 236. If pipe 230 were open to fresh air, the fog solution would be pumped out of the system and never reach the heating element 236.

In LaFata, fresh air enters an opening 124, shown in Fig. 3, and described on LaFata page 5, ¶102. As shown in Fig. 3, the heating element 94 is in the lower handle, and the fresh air intake is at opening 124, which is between the heating element 94 and the fan (not shown, see ¶ 101) positioned behind disk 138. Thus in LaFata, fresh air intake is located between the heating element 94, and the not shown fan behind disk 138.

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In the LaFata fog filled bubble toy, Figs. 3 & 9, fresh air does not enter the fog chamber so that the heating element assembly is between the fresh air entering the fog chamber and the exhaust fan (Fusco Claim 1); the LaFata fresh air does not enter through a fresh air hose that does not pass fresh air through the exhaust fan before fresh air enters the fog chamber (Fusco Claims 3 & 5); and the LaFata heating element assembly is not located between the fresh air and the exhaust fan (Fusco Claim 4).

LaFata does not disclose the Fusco Fog Filled Bubble Blower of Claims 1, 3, 4 & 5. For the above reasons, allowance on Claims 1, 3, 4 & 5 is respectfully requested.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that on February 10, 2006 this Amendment and Response to Office Action, Transmittal Form, Extension, Fee Transmittal, and check no. 9938 in the amount of \$510.00, were mailed under 37 CFR §1.08 by U.S. Postal Service, first-class mail, to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 with sufficient postage prepaid.

Laura B. Chagnon 2/10/06
Laura B. Chagnon Date: